

**PT 99-64**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>VERMILION COUNTY</b>	)	<b>A.H. Docket #</b>	<b>98-PT-0047</b>
<b>MUSEUM SOCIETY</b>	)	<b>Docket #</b>	<b>98-92-8</b>
<b>Applicant</b>	)		
	)	<b>Parcel Index #</b>	<b>DWL-0358 a/k/a</b>
<b>v.</b>	)	<b>Parcel Index #</b>	<b>23-08-105-049</b>
	)		
<b>THE DEPARTMENT OF REVENUE</b>	)	<b>Barbara S. Rowe</b>	
<b>OF THE STATE OF ILLINOIS</b>	)	<b>Administrative Law Judge</b>	

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Everett L. Laury, Attorney at Law, for the Vermilion County Museum Society.

**Synopsis:**

The hearing in this matter was held in Springfield, Illinois on October 14, 1998, to determine whether or not Vermilion County Parcel Index No. DWL-0358 a/k/a 23-08-105-049 qualified for exemption during the 1998-assessment year.

Susan Richter, Curator of the Vermilion County Museum Society (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant. The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1998 assessment year; secondly, whether the applicant submitted resolutions of the applicable taxing districts pursuant to 35 ILCS 200/15-60 (f), and lastly, whether this parcel was used by the applicant for charitable purposes during the 1998 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel during the entire 1998

assessment year. It is further determined that the applicant submitted the applicable resolutions as required by 35 ILCS 200/15-65(f). Finally, it is determined that the applicant used the parcel for charitable purposes during the period of February 1, 1998 through December 31, 1998 of the 1998 assessment year.

**Findings of Fact:**

1. The jurisdiction and position of the Department that Vermilion County Parcel Index No. DWL-0358 also known as Parcel Index No. 23-08-105-049 did not qualify for a property tax exemption for the 1998-assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 10)

2. On March 16, 1998, the Department received a property tax exemption application from the Vermilion County Board of Review for Permanent Parcel Index No. DWL-0358 a/k/a 23-08-105-049. The applicant had submitted the request, and the board recommended granting a full year exemption for the 1998 assessment year. The Department assigned Docket No. 98-92-8 to the application. (Dept. Grp. Ex. No. 2)

3. On April 23, 1998, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing held at the Illinois Department of Revenue, 101 W. Jefferson, Springfield, Illinois, on October 14, 1998, was pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a warranty deed dated August 29, 1997. (Dept. Grp. Ex. No. 2 pp. 3-4)

7. On the application for exemption, in response to question 10 which asked “Describe specific activities which take place on this property and the frequency of these activities?” the answer of the applicant was: “There are no buildings on the property, they have

been demolished. At the present time the property will serve as a security buffer for the Museum. It may be used in the future for expansion.” (Dept. Grp. Ex. No. 2 p. 1; Tr. p. 11)

8. The subject parcel is a vacant grass lot that is 56’ by 132’. It is adjacent and to the West of the applicant’s museum complex. Located on the museum property not at issue is the Fithian Home, which houses the applicant’s museum, an adjacent carriage house, an herb garden, and a 12-space parking lot. (Dept. Ex. No. 2 p. 1; Taxpayer’s Ex. Nos. 1&4; Tr. pp. 17-18, 37-38)

9. The applicant has been acquiring properties around the museum to use for additional parking. The immediate parking lot of the museum has 12 spaces with one of those designated for handicapped persons. Oftentimes tour busses with large numbers of guests visit the museum. There is not sufficient room for the tour busses to turn around or park in the immediate parking lot. (Tr. pp. 17-18)

10. Applicant’s museum is open six days a week. The applicant also hosts special events such as a Lincoln Open House in February, a candlelight Christmas walk in December, and a quilt show in July. Those events require between 200 and 300 places to park at any one time. School children in busses visit the museum. In 1997, the applicant taught and spoke to over 150 different clubs, groups, and organizations. The applicant has over 40 active volunteers that volunteered over 15,000 hours in 1997. (Tr. pp. 18, 31-35, 39-41)

11. The applicant uses the subject parcel for overflow parking as well as parking for staff, board members, and volunteers when special tours or events have been scheduled. This allows the main parking area to be used for unloading busses and parking for patrons. Approximately 50 cars can park on the lot in question. (Taxpayer’s Grp. Ex. No. 4; Tr. pp. 21-25, 41-43)

12. At the time of acquisition, a three-story, four-unit apartment building was on the parcel. It had to be torn down and the basement filled in before the applicant could grade the lot. The applicant first used the property in February 1998, after they were sure that the ground was

firm enough for parking. Prior to that it was a buffer zone. Although the subject parcel has not yet been graveled, it has been graded and seeded. (Taxpayer's Grp. Ex. No. 4; Tr. pp. 21-22, 24-25, 43)

13. The lot in question is especially suited for applicant's parking needs because it has two means of access from different streets. This allows ingress and egress from two different directions. (Taxpayer's Ex. Nos. 1 & 4; Tr. pp. 24 - 31)

14. On June 26, 1998, prior to the hearing in this matter, the Department sent a letter to the Supervisor of Assessments of Vermilion County, requesting a list of the taxing districts within which the parcel at issue was located. The Supervisor of Assessments supplied the list. (Taxpayer's Grp. Exhibit No. 2)

15. At the hearing, the taxpayer supplied resolutions stating that the taxpayer is a charitable organization using the property for charitable purposes from each of the taxing districts within which the subject parcel is located. (Taxpayer Grp. Ex. No. 2)

16. The applicant was incorporated under the General Not-for-Profit Corporation Act on May 12, 1964, for the following purpose:

To establish, maintain and operate a museum and to preserve the historical heritage of Vermilion County, Illinois, including natural history.  
(Department's Ex. No. 2 pp. 11-18<sup>1</sup>)

17. The applicant is exempt from the payment of Federal income tax because it established that for purposes of the Internal Revenue Service it is an organization described in section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 2 p. 11)

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<sup>1</sup> The purpose clause of the articles of incorporation was amended on March 8, 1965 to add that:

No part of the income or principal of the corporation shall inure to the benefit of or be distributed to any member, director, or officer of the corporation or any private individual, but reimbursement for expenditures of the payment of reasonable salaries for services rendered shall not be deemed to be a distribution of income or principal.

If for any reason it becomes necessary to dissolve this corporation the assets shall be applied to and for the use of such charities qualifying for tax exemption under the Internal Revenue Laws of the United States as may be directed by the Board of Directors of this Corporation at the time of dissolution.

18. The applicant is exempt from the payment of Illinois sales tax pursuant to an exemption letter issued by the Department on April 19, 1996. (Dept. Ex. No. 2 p. 10)

19. I take administrative notice of the fact that the Illinois Appellate Court found that the parking lot adjoining applicant's museum qualified for a charitable exemption in Vermilion County Museum Society v. Department of Revenue, 273 Ill.App.3d 675 (4<sup>th</sup> Dist. 1995).

### **Conclusions of Law:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 ILCS 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for

charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (f) An historical society, but only if all taxing districts within which the property is situated have adopted a resolution finding that the society is a charitable organization using the property exclusively for charitable purposes.

The applicant has fulfilled the requirement found at 35 **ILCS** 200/15-65(f) with the submissions of the letters from the taxing districts within which the subject property is located.

The statutory provision granting an exemption for parking lots is found at 35 **ILCS** 200/15-125, which states as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

The Illinois Appellate Court held that the applicant's immediate parking lot qualified for a charitable property tax exemption in Vermilion County Museum Society v. Department of Revenue, 273 Ill.App.3d 675 (4<sup>th</sup> Dist. 1995). The applicant has established that it used the subject parcel for parking for patrons, volunteers, and staff of its museum from February 1998 through December 31, 1998.

I therefore recommend that Vermilion County Parcel Index No. DWL-0358 also known as Parcel Index No. 23-08-105-049 be exempt from property taxation for the period of February 1, 1998, through December 31, 1998, or for 92% of the 1998 assessment year.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
May 12, 1999